

Joseph R. Saveri (SBN 130064)  
*jsaveri@lchb.com*  
Eric B. Fastiff (SBN 182260)  
*efastiff@lchb.com*  
Brendan Glackin (SBN 199643)  
*bglackin@lchb.com*  
LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP  
Embarcadero Center West  
275 Battery Street, 30th Floor  
San Francisco, CA 94111-3339  
Telephone: (415) 956-1000  
Facsimile: (415) 956-1008

*Attorneys for Plaintiffs*

[Additional Counsel Listed on Signature Page]

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
(OAKLAND DIVISION)

MEIJER, INC. & MEIJER DISTRIBUTION,  
INC., on behalf of themselves and all others  
similarly situated,

Plaintiffs,

v.

ABBOTT LABORATORIES,

Defendant.

ROCHESTER DRUG CO-OPERATIVE,  
INC., on behalf of itself and all others  
similarly situated,

Plaintiff,

v.

ABBOTT LABORATORIES,

Defendant.

--[caption continues on next page]—

Case No. C 07-5985 CW

**PRETRIAL ORDER NO. 1 REGARDING  
CONSOLIDATION AND  
MANAGEMENT**

Case No. C 07-6010 CW

**Hon. Claudia Wilken**

LOUISIANA WHOLESALE DRUG  
COMPANY, INC., on behalf of itself and all  
others similarly situated,

Plaintiff,

v.

ABBOTT LABORATORIES,

Defendant.

Case No. C 07-6118 CW

**Hon. Claudia Wilken**

WHEREAS, Plaintiffs Rochester Drug Co-operative, Inc., Meijer, Inc., Meijer Distribution, Inc., and Louisiana Wholesale Drug Co., Inc. (“Plaintiffs”) have filed complaints (the “Direct Purchaser Class Complaints”) in the above-referenced actions for alleged violations of the antitrust laws involving the brand name prescription drugs Norvir and Kaletra, pursuant to Section 2 of the Sherman Act, 15 U.S.C. § 2;

WHEREAS, Plaintiffs seek to proceed on behalf of a proposed class of direct purchasers of Norvir and/or Kaletra from defendant Abbott Laboratories (“Abbott”); and,

WHEREAS, consolidation of the Direct Purchaser Class Complaints and any other future like actions will avoid unnecessary costs and promote the efficient conduct of proceedings herein;

WHEREAS, Plaintiffs request entry of this Order, and Abbott does not oppose its entry;

NOW, THEREFORE, THE COURT ORDERS:

**I. CONSOLIDATION**

1. This Order shall govern and control the procedure for the litigation of each of the above-listed class actions, and all “tag along” class action cases—cases which assert or purport to assert class action claims arising from or relating to the operative facts and allegations contained in the Direct Purchaser Class Complaints—that are subsequently filed in or transferred to this Court (collectively, the “Consolidated Direct Purchaser Class Action”). All such actions are hereby consolidated for all purposes until further order, pursuant to Fed. R. Civ. P. 42(a).

2. The existing Consolidated Amended Complaint filed in *Meijer, Inc. & Meijer Distribution, Inc. v. Abbott Laboratories, Inc.*, No. C 07-5985 CW (N.D. Cal.), shall operate as the operative Consolidated Complaint. All papers hereafter filed in the Consolidated Direct Purchaser Class Action shall bear the caption of the earliest-filed Direct Purchaser Complaint, *Meijer, Inc. & Meijer Distribution, Inc. v. Abbott Laboratories, Inc.*, No. C 07-5985 CW (N.D. Cal.). The complaints in Civil Action Nos. 07-6010 & 07-6118 are dismissed without prejudice.

3. Defendant Abbott Laboratories has already answered the Consolidated Amended Complaint in the *Meijer* action.

4. The terms of this Order shall not have the effect of making any person, firm, or corporation a party to any action in which he, she or it has not been properly named, served, or joined, in accordance with the Federal Rules of Civil Procedure. The terms of this Order and the consolidation ordered herein, and Abbott's agreement not to oppose the entry of this Order, shall not constitute a waiver by any party of any claims in or defenses to any of the actions, including defenses based on personal jurisdiction.

5. When an action that properly belongs as part of the Consolidated Direct Purchaser Class Action (pursuant to paragraph I.1 of this Order) is hereinafter filed in this Court or transferred to this Court, Plaintiffs' Co-Lead Counsel (*see* paragraph II.1 of this Order) shall serve a file-endorsed copy of this Order upon attorneys for plaintiff(s) in the newly-filed or transferred action, and upon the attorneys for any new defendant(s) in the newly-filed or transferred cases, and file such notice and proof of service with this Court. Objections to consolidation or application of the other terms of this Order to such cases shall be promptly filed, with a copy served on counsel for Plaintiffs.

## **II. ORGANIZATION OF COUNSEL**

1. The Court designates the following to act as Co-Lead Counsel on behalf of all plaintiffs in the Consolidated Direct Purchaser Class Action, with the responsibilities hereinafter described:

KAPLAN FOX & KILSHEIMER, LLP  
Robert N. Kaplan  
Linda P. Nussbaum  
John D. Radice  
805 Third Avenue  
New York, NY 10022  
Tel: 212.687.1980  
Fax: 212.687.7714

BERGER & MONTAGUE, P.C.  
Eric L. Cramer  
Daniel C. Simons  
1622 Locust Street  
Philadelphia, PA 19103  
Tel: (215) 875-3000  
Fax: (215) 875-4604

GARWIN GERSTEIN & FISHER, LLP  
Bruce E. Gerstein  
Noah Silverman  
1501 Broadway  
New York, NY 10036  
Tel: (212) 398-0055  
Fax: (212) 764-6620

2. Co-Lead Counsel, working together in a coordinated fashion, shall have sole authority over the following matters on behalf of all plaintiffs in the Consolidated Direct Purchaser Action: (a) convening meetings of plaintiffs' counsel; (b) initiation, response, scheduling, briefing, and argument of all motions; (c) the scope, order, and conduct of all discovery proceedings; (d) making such work assignments among themselves and other counsel as they may deem appropriate; (e) collecting time and expense reports from all plaintiffs' counsel on a periodic basis; (f) the retention of experts; (g) designation of which attorneys shall appear at hearings and conferences with the Court; (h) the timing and substance of any settlement negotiations with defendant(s); (i) the allocation of fees, if any are awarded by the Court; and (j) other matters concerning the prosecution of the Consolidated Direct Purchaser Action.

3. In addition to Co-Lead Counsel, the Court designates the following to serve on an Executive Committee, comprised of themselves and Co-Lead Counsel with the responsibilities hereinafter described:

1 ODOM & DES ROCHEs, LLP  
2 John Gregory Odom  
3 Stuart E. Des Roches  
4 John Alden Meade  
5 Suite 2020, Poydras Center  
6 650 Poydras Street  
7 New Orleans, LA 70130  
8 Tel: (504) 522-0077  
9 Fax: (504) 522-0078

10 THE SMITH FOOTE LAW FIRM, LLP  
11 David P. Smith  
12 W. Ross Foote  
13 720 Murray Street  
14 P.O. Box 1632  
15 Alexandria, LA 71309  
16 Tel: (318) 445-4480  
17 Fax: (318) 487-1741

18 4. The Executive Committee shall perform the functions of the litigation as  
19 directed by Co-Lead Counsel.

20 5. The Court designates the following firms to act as Other Class Counsel,  
21 which shall perform the functions of the litigation as directed by the Co-Lead Counsel and/or the  
22 Executive Committee:

23 LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP  
24 Joseph R. Saveri  
25 Eric B. Fastiff  
26 Brendan Glackin  
27 Embarcadero Center West  
28 275 Battery Street, 30th Floor  
San Francisco, CA 94111-3339  
Telephone: (415) 956-1000  
Facsimile: (415) 956-1008

SPIEGEL, LIAO & KAGAY  
Charles M. Kagay  
Wayne M. Liao  
388 Market Street, Suite 900  
San Francisco, California 94111  
Telephone: (415) 956-5959  
Facsimile: (415) 962-1431

KOZYAK TROPIN & THROCKMORTON

Tucker Ronzetti  
Adam Moskowitz  
2800 Wachovia Financial Center  
200 South Biscayne Boulevard  
Miami, Florida 33131-2335  
Telephone: (305) 372-1800  
Telecopier: (305) 372-3508

AUBERTINE DRAPER ROSE, LLP

Andrew E. Aubertine  
1211 SW Sixth Avenue  
Portland, Oregon 97204  
Telephone: (503) 221-4570  
Facsimile: (503) 221-4590

LAW OFFICES OF JOSHUA P. DAVIS

Joshua P. Davis  
437A Valley Street  
San Francisco, CA 94131  
Telephone: (415) 422-6223

VANEK, VICKERS & MASINI, P.C.

Joseph M. Vanek  
David P. Germaine  
111 S. Wacker Drive, Suite 4050  
Chicago, IL 60606  
Telephone: (312) 224-1500  
Facsimile: (312) 224-1510

SPERLING & SLATER

Paul E. Slater  
55 West Monroe Street, Suite 3200  
Chicago, Illinois 60603  
Telephone: (312) 641-3200  
Facsimile: (312) 641-6492

6. No motion or other pleadings shall be initiated or filed on behalf of any Plaintiffs in the Consolidated Direct Purchaser Action except through Co-Lead Counsel or their designees.

7. Time Records: All Plaintiffs' counsel in the Consolidated Direct Purchaser Action shall keep contemporaneous time records and shall periodically submit summaries or other records and expenses to Co-Lead Counsel or their designees.

SO ORDERED, this 18th day of June, 2008:



United States District Judge